

Remarks

Claims 1, 3-5, 7-18, 21, 22, 24 and 27-31 are rejected and Claims 19, 20, 23, 25 and 26 are objected to as being dependent upon a rejected base claim, but considered allowable if rewritten in independent form. Claims 8 and 22 have been cancelled without prejudice. Claims 1, 4, 9-14, 16, 18, 21 and 23 have been amended to better represent the Applicant's invention. No new matter has been introduced. All of the amendments are supported by the original specification (see, e.g. Figure 1). Reconsideration and allowance respectfully requested.

I. Allowable Subject Matter

The Examiner rejected claims 19, 20, 23, 25, and 26 as being dependent upon a rejected base claim, but has stated that they would be allowable if rewritten in independent form, which the Applicant acknowledges with appreciation. As explained below, however, the rejection of the base claims should be withdrawn. Thus, these claims are also now seen as allowable in their current form.

II. Rejection of Claims under 35 U.S.C 103(a)

The Examiner has rejected claims 1, 3-5, 7-18, 21, 22, 24 and 27-32 under 35 U.S.C 103(a) as being obvious over Johnson (US 4,222,274) in view of Kruger (US 6,216,025) and further in view of Hassler et al. (US 4,478,083), Dick et al. (US 4,233,988), Gardineer et al. (US 4,282,880), Linuma (US 4,252,125 and Shmulewitz (US 5,479,927).

Claim 1 as amended incorporates the limitation of cancelled claim 8 and is directed to a breast tomography scanner comprising a movable chamber within a stationary chamber that is configured to hold fluid, wherein the moveable chamber has at least one opening other than its top that is patent at all times to allow fluid communication between the movable and the stationary chamber. Examiner agrees that Johnson in view of Kruger fails to teach the inner chamber having at least one hole to allow fluid communication between the stationary outer chamber and the rotatable inner chamber.

Examiner asserts that Dick et al. (US 4,233,988) teaches the fluid communication opening of the Applicant's invention based on the drain port 52 in Figure 2 of Dick et al. While Dick et al. may teach a drain hole having a valve 52 to drain the fluid out from the stationary tank 50 receiving the breast 61, Claim 1 as amended now specifically includes the limitation of an opening in the movable chamber that is patent at all times for the fluid to communicate between the movable and the stationary chambers. Dick et al does not teach such a feature. First, the drain valve 52 of Dick et al is located between a stationary tank 50 and another stationary overflow tank 51. Second, the drain valve 52 is not left open at all times as required by claim 1. The valve especially will not be open during the scanning process as also required by the claim, since doing so would jeopardize the scanning operation of Dick et al. having the breast 61 suspended in an empty tank 50 with no captured images.

The fluid communication opening of Applicant's invention allows a shift of the coupling fluid between the movable chamber and the stationary chamber as the movable chamber translates up/down to perform the ultrasound scanning. The shifting of fluid through the fluid communication opening will reduce turbulence created in the

fluid by the movement which effectively may move the breast in the movable chamber. This movement of the breast during the scanning would otherwise cause distortion in the captured images.

None of the prior art of record teach such fluid communication and hence the rejection of the claim based on combination of the prior art is improper (M.P.E.P 2143).

Therefore, the Applicant believes that Claim 1 of the instant application as amended is in condition for Allowance. Claims 3-5, 7, 9-21 and 23-32 depend from an allowable base claim and are thus themselves allowable.

III. Conclusion

Applicant respectfully submits that the above amendments place this application in condition for allowance, which Applicant respectfully solicits.

A petition for a two-month extension of time under 37 C.F.R 1.136 is being filed contemporaneously herewith. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 501946 and please credit any excess fees to such deposit account and reference attorney docket no. 64693-0070.

Respectfully submitted,
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Date: March 28, 2007